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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,588	04/28/2006	Andrey Vyacheslavovich Agarkov	A1187 20001	3074

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EXAMINER

STEPHENS III, JOSE S

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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11/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/595,588	Applicant(s) AGARKOV, ANDREY VYACHESLAVOVICH	
	Examiner JOSE S. STEPHENS III	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment filed 25 August 2008. Claims 1-32 are pending in the application; and claims 30-32 are new.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3, 11, and 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the inner surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 11 and 24 recite "a tube which is arranged in the bottom part of the receptacle", but figure 7 shows the tube in the upper part of the receptacle.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21, 23-28, and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kachur et al. (US Patent 3,924,741).

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With respect to claim 1, figures 1-5 of Kachur et al. teach a vessel (see figure 2) for multicomponent products comprising a receptacle 1 for a basic component 27; a cover 21 in a detachable connection with the receptacle; a container 2 for an introduced component 28, the container placed in an upper part of the receptacle, wherein the vessel has a channel (space that the dome 25 covers) for outputting an end product; an opening 9 in the container; a valve 12 uncovering the opening of the container to permit flow of the introduced component through the opening and mixing of the basic component and the introduced component, and the valve covering the opening of the container after uncovering the opening of the container to interrupt the mixing of the basic component and the introduced component to provide dosed mixing of the basic component and the introduced component, wherein the container and the valve are slidably connected such that either the container and the valve can move along guide members 4 and wherein the cover can interact with the container.

With respect to claim 2, figure 3 of Kachur et al. teaches the valve is provided on an outer surface (outer surface of wall) of the container.

With respect to claim 3, figure 3 of Kachur et al. teaches the valve is provided on an inner surface (inner surface of wall) of the container.

With respect to claims 4 and 23, figure 3 of Kachur et al. teaches the upper part of the valve is made in the form of a neck.

With respect to claim 5, figure 4 of Kachur et al. teaches the guide members are in a form of a spiral.

With respect to claim 6, figure 4 of Kachur et al. teaches the guide members are formed by a part of the receptacle.

With respect to claim 7, figure 3 of Kachur et al. teaches the container is made as an independent structural element.

With respect to claim 8, figure 3 of Kachur et al. teaches the valve is made as an element of the container.

With respect to claim 9, figure 4 of Kachur et al. teaches the channel for output of the end product is placed inside the container.

With respect to claim 10, figure 4 of Kachur et al. teaches the channel for output of the end product passes through the valve.

With respect to claims 11 and 24, figure 1 of Kachur et al. teaches the vessel additionally has a tube 7 which is being arranged in the upper part of the receptacle and being connected to the channel for the output of the end product.

With respect to claim 12, figure 3 of Kachur et al. teaches the cover is connected to the container with the possibility of a detachable connection.

With respect to claim 13, figure 2 of Kachur et al. teaches the cover is rigidly connected to the container or the valve.

With respect to claims 14, 25, and 26, figure 2 of Kachur et al. teaches a resilient element 17 for the interaction of the cover with the container.

With respect to claims 15 and 27, figure 2 of Kachur et al. teaches the cover interacts with the container by its inner part.

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With respect to claim 16, figure 2 of Kachur et al. teaches the inside part of the cover is flat.

With respect to claim 17, figure 2 of Kachur et al. teaches the inside part of the cover has a coupling element 24.

With respect to claim 18, figure 2 of Kachur et al. teaches the coupling element is made in the form a clamp.

With respect to claims 19 and 28, figure 3 of Kachur et al. teaches a coupling element 15 is mounted on the container.

With respect to claim 20, figure 3 of Kachur et al. teaches the coupling element is made in the form of a plug connector.

With respect to claim 21, figure 4 of Kachur et al. teaches a removable cap 25 is arranged on the cover.

With respect to claim 30, figure 4 of Kachur et al. teaches an output flow of the end product through the channel to the exterior of the receptacle wherein the output flow occurs without any movement of the container toward the exterior of the receptacle. Once the basic and introduced components are mixed together the container is already extended out toward the exterior of the receptacle, as seen in figure 3. Once in that position the end product is then able to pass through the channel to the exterior of the receptacle without any further movement of the container.

With respect to claim 31, figure 4 of Kachur et al. teaches the guide members guide a twisting movement of the container.

With respect to claim 32, figure 4 of Kachur et al. teaches the guide members are stationary with respect to the valve while guiding the twisting movement of the container.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kachur et al. (US Patent 3,924,741) Kachur et al. (US Patent 3,924,741) as applied to claims 2 and 3 above, and further in view of Silver et al. (US Patent 4,315,570).

With respect to claims 22 and 29, Kachur et al. does not teach blades mounted on the inside part of the container and valve. However, figure 7 of Silver et al. teaches blades 85 mounted on the inside part of a container. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

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the vessel of Kachur et al. by incorporating the blades, as taught by Silver et al., on the container and the valve to mix up the components.

Response to Arguments

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are vessels analogous to applicant's invention.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSE S. STEPHENS III whose telephone number is 571-270-3797. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacob K. Ackun Jr./
Primary Examiner, Art Unit 3728

JSS